

REMONSTRANCE

OF THE

VERMONT AND CANADA RAIL ROAD COMPANY

AGAINST THE BILL

TO INCORPORATE THE CHAMPLAIN RAILWAY COMPANY.

OCTOBER SESSION, 1849.

To the Honorable the General Assembly of Vermont, now in session :

The undersigned, on behalf of the Board of Directors of the "VERMONT AND CANADA RAIL ROAD COMPANY," would respectfully represent that an application already made to your Honorable body for an act to incorporate a company under the style of the "*Champlain Railway Company*," with the right to locate and build a rail road from the Village of Burlington to Canada Line, and also to the western shore of Grand Isle County, is regarded by the Directors of the "Vermont and Canada Rail Road Company" as an attempted conflict with, and in violation of, the chartered rights of said Company, and the passage of the act aforesaid would compromise the integrity and good faith of the State of Vermont.

On these two grounds, I am instructed by the Board of Directors of the "Vermont and Canada Rail Road Company" to interpose a respectful remonstrance against the passage of the Bill now before the General Assembly.

An application to the Legislature of such a novel and extraordinary character, and the position which the friends of the Rutland and Burlington Rail Road Company occupy in regard to the matter, seem to justify a brief recital and submission of facts touching the procurement of the charter of the Vermont and Canada Rail Road Company, and the action which has been had under and by virtue of its provisions.

Prior to the year 1845, the General Assembly of this State had granted two charters—the one incorporating the "*Vermont Central Rail Road Company*," with the right to lo-

cate and build a rail road from the eastern shore of Lake Champlain, up the valley of Onion River, to the valley of the Connecticut; and the other, incorporating the Company now known as the "*Rutland and Burlington Rail Road Company*," with the right to locate and build a rail road from Connecticut River to Burlington. When the charters above mentioned were granted by the General Assembly, the friends of both roads entertained no thought or intention of extending a railway northward from the Village of Burlington.

In 1845, the citizens of the County of Franklin, desiring to participate in the social and commercial benefits consequent upon the establishment and maintenance of railway communications, which were about to be enjoyed in adjacent and remote sections of Vermont, preferred their successful application to the General Assembly for the passage of an act to incorporate a Company under the style of "*The Vermont and Canada Rail Road Company*," by virtue of which act of incorporation, said Company were empowered to locate and build a rail road from the northern line of Highgate through the Village of St. Albans, to some point or points in Chittenden County most convenient for meeting, at the Village of Burlington, a rail road to be built on the route described in the act to incorporate the "*Champlain and Connecticut River Rail Road Company*"; and to some point or points in Chittenden County most convenient for meeting a rail road to be built on the route described in the act to incorporate the "*Vermont Central Rail Road Company*"; and also with the further right to extend a rail road from said line to some point on the western shore of Grand Isle County, passing across the sand bar.

The application of the citizens of the County of Franklin received the favorable consideration of the General Assembly, and an act was passed at the October session, 1845, incorporating the "*Vermont and Canada Rail Road Company*," with the right to locate and build a rail road on the route described in said charter, which was then perfectly satisfactory to the Rutland and Burlington Rail Road Company.

The friends of the measure were, at the date when the charter was obtained, and have ever been, desirous to secure the most favorable connection with the Vermont Central and with the Rutland and Burlington Rail Roads, of which the face of the country would admit.

The Commissioners named in the act of incorporation, opened, in the summer of 1847, books for subscribing to the capital stock of said rail road company, agreeable to the provisions of its charter, and confidently hoped that the friends of the Vermont Central Rail Road Company, and of the Rutland and Burlington Rail Road Company, would aid in taking the stock and thereby secure the building of the Vermont and Canada Rail Road—which, as the undersigned believes, constitutes a link in the great project of completing an unbroken line of railway communication between the City of Boston and Ogdensburg

—but, in this respect, the friends of the project were disappointed, for not a single share was subscribed for by any one interested in the Rutland and Burlington Rail Road Company.

An amount of the capital stock sufficient to authorize the organization of the Company was taken, and it was duly organized by the election of GEORGE PARISH, of Ogdensburgh, J. W. EDMANDS, and SAMUEL S. LEWIS, of Boston, SAMUEL M. FELTON, of Charlestown, CHARLES PAINE, of Northfield, JOHN SMITH and LAWRENCE BRAINERD, of St. Albans, as the Board of Directors of said Company.

Shortly before the organization of the "Vermont and Canada Rail Road Company," the Directors of the Northern Rail Road Company in New York had located their road so as to reach the shore of Lake Champlain at Rouse's Point, opposite to Alburgh in this State. This location rendered it necessary for the Vermont and Canada Rail Road Company to procure an alteration of its charter by which it might be authorized to form a connection with the rail road from Ogdensburgh, whose terminus would be at Rouse's Point. The Directors of the Vermont and Canada Rail Road Company accordingly applied to the General Assembly of Vermont in the autumn of 1847, for such an alteration of its charter. Without such an alteration, it was apparent to all that the charter of the Vermont and Canada Rail Road Company became practically inoperative, and that all hope of a rail way running north of Burlington would be vain. And yet the friends of the Rutland and Burlington Rail Road Company—as well those who were members of the General Assembly as those who were present to observe the action of the Legislature—resisted vigorously and to the last moment, the proposed alteration.

The friends of a continuous line of rail road, from Boston to Ogdensburgh, were so anxious to secure the desired object—and of which the route designated by the charter of the Vermont and Canada Rail Road Company is an indispensable link—that with the view of avoiding opposition to it, overtures of a liberal nature and of the most conciliatory character, were made to the President and friends of the Rutland and Burlington Rail Road Company. On the part of the Vermont Central Rail Road Company, a proposition was submitted by its President to the President of the Rutland and Burlington Rail Road Company to the following effect: that if the friends of the Rutland and Burlington Rail Road would support the bill granting an alteration of the charter of the Vermont and Canada Rail Road Company, the Vermont Central Rail Road Company, on its part, would agree to make a connection with the Vermont and Canada Rail Road in the village of Burlington, and at no other point whatsoever.

The President of the Vermont and Canada Rail Road Company submitted, on behalf of said Company, to the President of the Rutland and Burlington Rail Road Company, a proposition: that if the friends of the Rutland and Burlington Railroad would assent to

the proposed alteration of the charter of the Vermont and Canada Rail Road Company, said last mentioned company would locate and build the rail way to some point in Chittenden County most convenient for meeting the Vermont Central and the Rutland and Burlington rail roads, and permit both companies to build to such point of connection and use a common depot and station house.

Both propositions the friends of the Rutland and Burlington Rail Road thought proper to reject; but subsequently, however, an alteration and amendment of the charter was granted by the General Assembly, notwithstanding the persevering opposition of the friends of the Rutland and Burlington Rail Road Company.

In December 1847, the Directors of the Vermont and Canada Rail Road Company, at a regular meeting, ordered a survey of the route specified in the charter to be made, and HENRY R. CAMPBELL, Esq., an able and accomplished engineer, was employed by the Board of Directors to perform that service.

In the month of January, 1848, Mr. CAMPBELL, with an experienced assistant, PHAON JARRETT, Esq., proceeded to St. Albans to commence his labors, and at that time, the President of said company furnished Mr. Campbell with a copy of the charter of the Vermont and Canada Rail Road Company, and directed him to make a thorough examination with a view to a selection of the best route, of which the face of the country would admit, for making the connections contemplated and required by the charter. No other or different directions were ever given to Mr. Campbell or to Mr. Jarrett, his assistant, either by the President or by the Board of Directors of said rail road company.

The survey was finished and a report thereof was submitted by Mr. Campbell to the Board of Directors in August, 1848,—thus indicating that more than six months were spent in perfecting and completing the survey, and during that term of time no communication was made by the President or the Directors of the Rutland and Burlington Rail Road Company on the subject of the survey, nor did they manifest any interest in the matter, so far as the Directors of the Vermont and Canada Rail Road could determine.

The line, selected and recommended for adoption by the Chief Engineer, begins at a point on the Canadian frontier in the town of Highgate near Rock River, thence running southwardly through the village of St. Albans to a School house in Essex on the road leading to Stanton's Hotel, where the road branches. From this point, the Southern branch of the line curves to the right and extends as far as the Vermont Central Rail Road below Stanton's Hotel and about five and a half miles above Burlington, thence down the route of the Vermont Central to the village of Burlington. The Eastern branch extends from a point near said school house to a point on the Vermont Central Rail Road above Stanton's Hotel.

The line reaching the Vermont Central Rail Road above Stanton's Inn at Essex has

been located by the Directors, for the reason that it was the most convenient point for making a connection with the Vermont Central Rail Road; and they have let the grading to responsible contractors, who have commenced and are prosecuting the work at different places on the route.

The land damages have been mostly appraised by the Commissioners appointed for that purpose, from Essex to St. Albans.

The iron for the rails to be laid between Essex and St. Albans, a distance of twenty-four miles, has been contracted for.

Ten per centum on the capital stock subscribed for, has been paid into the hands of the Company's Treasurer, with the exception of a few shares; and the confident expectation is entertained by the Board of Directors that the entire line of Rail-way of said Company will be finished and in active operation within the year ensuing. And it is believed that the Rail Road from Ogdensburgh to Rouse's Point, and the Rail Road from St. Johns to the same place, will be built within the same period.

With regard to the connection of the Vermont and Canada Rail Road with that of the Rutland and Burlington Rail Road Company, at the village of Burlington, it is proper to repeat what has already been stated, that it has always been, and still continues to be, the purpose of the Directors of the Vermont and Canada Rail Road Company to make the best connection that the face of the country and the provisions of the charter will admit of.

Some delay in determining and locating a line for a connection with the Rutland and Burlington Rail Road has been unavoidable, inasmuch as the line surveyed by Mr. Campbell (with a view to such connection,) has not been satisfactory to the friends of the Rutland and Burlington Rail Road. Since the Board of Directors were apprized of that fact, much time has been spent and much pains has been taken to discover a more satisfactory route. Several routes have been carefully examined for the purpose of securing, if possible, a more direct and independent connection with the Rutland and Burlington Rail Road than the one described in Mr. Campbell's report. Either one of the routes will, of necessity, pass around the head of Mallett's Bay and for a considerable distance on the line lately surveyed by the Chief Engineer of the Rutland and Burlington Rail Road, and also cross the river Lamoille at the point designated for bridging said river by the Chief Engineer of the Rutland and Burlington Rail Road. The surveys, last referred to, have not been made with sufficient accuracy to justify any definite action on the part of the Board of Directors; but a further and more accurate examination will be made by the corps of Engineers at an early day, and the best line that can be found to make the connections required by the charter of the Vermont and Canada Rail Road Company will be selected, and the Rail Road will be constructed thereon at the earliest practicable period.

The first information received by the Directors of the Vermont and Canada Rail Road Company, that the survey of Mr. Campbell was unsatisfactory to the friends of the Rutland and Burlington Rail Road, was contained in a letter written to the President of the Vermont and Canada Rail Road Company, by the President of the Rutland and Burlington Rail Road Company, bearing date November 18th, 1848.

In answer to that communication the President of the Vermont and Canada Rail Road Company tendered to the President of the Rutland and Burlington Rail Road Company the maps and profiles made by the Engineers of the Vermont and Canada Rail Road Company for the inspection of said President and his corps of Engineers, and assurances were also given that the Directors of the Vermont and Canada Rail Road Company would aid the President of the Rutland and Burlington Rail Road Company by the services of the Engineers of said Company, in making a further examination in connection with the Engineers of the Rutland and Burlington Rail Road, for a more satisfactory route.

In answer to this letter, the President of the Rutland and Burlington Rail Road Company, under date of December 1st, 1848, writes in the following terms :

"I received last evening your letter of the 30th ult., and am happy to learn from you, as I do, that you entertain the desire to make a satisfactory connection with our road. Our Chief Engineer, WILLIAM B. GILBERT, Esq., with his accomplished Assistant, ARTHUR W. HOYT, Esq., are now on the ground making an exploration of 'the West line,' so called.

"What the result of this exploration may be, cannot, of course, be foretold. Should those gentlemen find the route apparently so favorable as to justify a further examination, an Instrumental Survey will be made, when we shall be happy to avail ourselves of the aid of your maps, profiles, &c. as also the advice and opinion of your Engineers, Mr. CAMPBELL or Mr. JARRETT, which you have politely offered."

On the receipt of the letter above transcribed, Mr. CAMPBELL and Mr. JARRETT were notified that their services might be needed, and were directed to be in readiness to unite with the Engineers of the Rutland and Burlington Rail Road Company, in making a further examination of said routes.

Nothing additional was heard from the President of the Rutland and Burlington Rail Road Company until the 8th day of March, 1849, when he addressed a letter to the President of the Vermont and Canada Rail Road Company, in the which he says that the maps, profiles and estimates on the route surveyed by his Engineers were nearly complete, and invites the President of the Vermont and Canada Rail Road Company, with his corps of Engineers, to pass over the line and to test the accuracy of the survey, estimates, &c. made by Mr. GILBERT, Chief Engineer of the Rutland and Burlington Rail Road Company.

The offer made by the President of the Vermont and Canada Rail Road Company to the President of the Rutland and Burlington Rail Road Company—which offer was accepted—was to seek for a better route, all interests being justly considered, but was not to test the accuracy of a line surveyed by Mr. GILBERT, which was not embraced within the provisions of the charter of the Vermont and Canada Rail Road Company.

To all who will examine the bill introduced into the House of Representatives, and will compare therewith the charter of the Vermont and Canada Rail Road Company, it must be obvious that the route described in the Bill must, to some extent, of necessity, conflict with the route described in the charter of the Vermont and Canada Rail Road Company, and, where it does not conflict, it is a *parallel line*.

In conclusion, it may not be improper for the undersigned to remark, that there is an implied contract in all charters granted by the General Assembly, that the State of Vermont shall do no act by means of which the rights and interests of corporations shall be injuriously affected. Relying on the good faith of the State, the Vermont and Canada Rail Road Company has already expended a large amount of money, and entered into contracts for the construction of the road as contemplated by its charter.

If the General Assembly shall now grant to another Company the right to enter upon the same territory, or to build a parallel rail road, it would be justly regarded as an act of great injustice to the Vermont and Canada Rail Road Company, and a sudden abandonment of the conservative principles which have always characterized the legislation of the State of Vermont.

Already do the citizens of this State begin to realize the fruits of those great works of Internal Improvement which have been commenced and carried forward with capital attracted from older and wealthier States—enterprises, which, while they impart a fresh vigor and infuse a healthy impulse into every department of home-industry and business, are destined to reach the great and growing trade of the West; and it remains to be determined whether Vermont, by her legislative enactments, will deliberately thwart, embarrass or retard a great public enterprise now so nearly completed.

By order of the Board of Directors,

JOHN SMITH,

President of the "Vermont and Canada Rail Road Company."